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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/788,446	03/01/2004	Barbro Moberg-Alehammar	1018798-000224	9994
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EXAMINER				
KIDWELL, MICHELE M				
ART UNIT		PAPER NUMBER		
3761				
NOTIFICATION DATE		DELIVERY MODE		
03/09/2009		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ADIPFDD@bipc.com

### Office Action Summary

**Application No.**

10/788,446

**Applicant(s)**

MOBERG-ALEHAMMAR ET AL.

**Examiner**

Michele Kidwell

**Art Unit**

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 November 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17, 19 and 21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17, 19 and 21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB06)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 – 17, 19 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baer et al. (US 5,728,081) in view of Hanson et al. (US 5,509,915).

With respect to claims 1 – 3, 17, 19 and 21, Baer et al. (hereinafter “Baer”) discloses an absorbent article comprising: an absorbent body (14) comprising at least one layer, a liquid-permeable covering layer (10) arranged over a first surface on the absorbent body, and a liquid-permeable liquid-transfer layer (12) immediately adjacent the first surface of the absorbent body and arranged between the absorbent body and the liquid-permeable covering layer (figure 1), wherein the liquid-permeable covering layer comprises a nonwoven material with a pore volume distribution curve with a maximum at a pore radius greater than 55  $\mu\text{m}$  (col. 3, lines 1 – 5), and wherein the liquid-transfer layer comprises a fibrous layer with a pore volume distribution curve with a maximum greater than that of the covering layer as set forth in col. 2, lines 66 to col. 3, lines 1. The first surface of the absorbent body defines a user-facing surface and the liquid permeable liquid transfer layer is immediately adjacent to the liquid permeable covering layer as shown in figure 1.

The difference between Baer and claim 1 is the provision that that covering layer has a wetting angle of at least 120 degrees and that the liquid transfer layer explicitly discloses a specific pore radius.

Hanson et al. (hereinafter "Hanson") teaches spunbond covering layer with a basis weight of about 22 gsm (col. 7, lines 36 – 40). According to the applicant's disclosure, a spunbond covering layer with the same denier disclosed by Hanson with a basis weight of 18 gsm will provide the claimed contact angle. The examiner contends that based on Hanson's teaching of a basis weight of about 22 gsm, one could reasonably include 18 gsm as being about 22 gsm.

Alternatively, the contact angle would at least be very similar and it would have been obvious to one of ordinary skill in the art to modify the contact angle to provide the most effective product since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable range involves only a level of ordinary skill in the art since Hanson anticipates parameters that would include modifications in the contact angle as set forth in col. 24, lines 35 – 41.

It would have been obvious to one of ordinary skill in the art to employ the covering layer as taught by Hanson because the use of the hydrophobic topsheet taught by Hanson helps to isolate the wearer's skin from liquids as taught by Hanson in col. 7, lines 18 - 20.

With reference to claims 4 and 5, Hanson discloses an absorbent article wherein the liquid-permeable covering layer comprises fibers with a fiber fineness of at least 5 dtex and the claimed basis weight as set forth in col. 22, lines 43 – 61.

As to claim 6, Hanson discloses an absorbent article wherein the liquid permeable covering layer comprises a spunbond nonwoven as set forth in col. 18, lines 49 – 54.

With reference to claim 7, Hanson discloses an absorbent article wherein the liquid-transfer layer comprises a polymer with a binding agent as set forth in col. 17, lines 11 – 16 and 60 – 64.

It would have been obvious to one of ordinary skill in the art to modify the type of polymer used because the substitution of one type of polymer for another is within the level of ordinary skill in the art.

With reference to claims 8 – 12, see the rejection of claim 1.

Regarding claim 13, it would have been obvious to one of ordinary skill in the art to modify the denier in order to provide the most effective product as Hanson is concerned with absorbent articles as is the instant application, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable range involves only a level of ordinary skill in the art

As to claim 14, Hanson discloses the claimed basis weight in col. 17, lines 12 – 17. The examiner considers the bulk measured at a specific load as functional. Hanson is fully capable of performing the recited function.

With reference to claim 15, see the rejection of claim 1. The examiner considers much of the claim to recite functional limitations that the article Hanson is fully capable of performing.

As to claim 16, Hanson discloses an absorbent article wherein the article comprises a liquid-impermeable covering layer located over a second surface on the absorbent body opposite the first surface, and in that the liquid-permeable covering layer and the liquid-impermeable covering layer together enclose the absorbent body as set forth in col. 6, lines 39 – 50.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1 – 17, 19 and 21 have been considered but are moot in view of the new ground(s) of rejection.

With respect to the applicant's argument regarding the wetting angle and the surfactant disclosed by Hanson, the examiner notes that the contact angle would at least be very similar and it would have been obvious to one of ordinary skill in the art to modify the contact angle to provide the most effective product since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable range involves only a level of ordinary skill in the art since Hanson anticipates parameters that would include modifications in the contact angle as set forth in col. 24, lines 35 – 41. Likewise, Hanson discloses that the surfactant is optional as set forth in col. 7, lines 32 – 36. In this case, the reference supports the examiner's assertion that the contact angle may be modified.

If one of ordinary skill in the art is able to "at once envisage" the specific embodiment within the generic teaching, the embodiment is anticipated. See MPEP 2131.02.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michele Kidwell whose telephone number is 571-272-4935. The examiner can normally be reached on Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michele Kidwell/  
Primary Examiner, Art Unit 3761